occurring between a first location and a second location on a computer network comprising:

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transmitting test packets from said first location to said second location

evaluating said test packets to determine the effect on said data packets of transmitting packets from said first location to said second location; and

if said evaluating determines the effect on said data packets to be undesirable, sending said data packets to a third location prior to sending said data packets to said second location.

25. (Previously presented)   The method of Claim 24, wherein said first location, said second location and said third location comprise interfaces.

26. (Previously presented)   The method of Claim 24, wherein one said effect on said data packets comprises latency.

27. (Previously presented)   The method of Claim 24, wherein (send) said data packets to a third location comprises causing said data packets to take a different route on said computer network.

28. (Previously presented)   The method of Claim 24, wherein an undesirable effect on said data packets comprises degrading the quality of communication between said first location and said second location that inhibits voice communication.

29. (Previously presented) A method for maintaining desirable transmission characteristics when sending data packets during a communication session occurring between a first location and a second location on a computer network comprising:

transmitting data packets from said first location to said second location

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evaluating said data packets to determine the effect on said data packets of
transmitting packets from said first location to said second location; and
if said evaluating determines the effect on said data packets to be
undesirable, sending said data packets to a third location prior to sending said
data packets to said second location.   *subsequent packets?*

30. (Previously presented)   The method of Claim 29, wherein said first location, said
second location and said third location comprise interfaces.

31. (Previously presented)   The method of Claim 29, wherein one said effect on
said data packets comprises latency.

32-46 Withdrawn from consideration

Cancel claims 37-41 without prejudice

47. (New) In a digital communications network, a monitoring and routing system for
maintaining desirable transmission characteristics when sending data packets during
a communication session occurring between a first location and a second location
on a computer network comprising:

    means for controlling route selection between a first location and a second
    location

    means for transmitting path characteristic packets from said first location to
    said second location;   *AB?*
    means for evaluating said test packets to determine the effect on said data
    packets of transmitting packets from said first location to said second location;
    and

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means responsive to an evaluation that the effect on said data packets is undesirable to select a route so that said data packets are sent to a third location prior to sending said data packets to said second location.

48. (New)   The monitoring and routing system of Claim 47, wherein said first location, said second location and said third location comprise interfaces.

49. (New)   The monitoring and routing system of Claim 47, wherein said path characteristic packets comprise test packets.

50. (New)   The monitoring and routing system of Claim 47, wherein said wherein said path characteristic packets comprise data packets.

51. (New)   The monitoring and routing system of Claim 47, wherein said wherein said path characteristic packets comprise pings.

REMARKS

Claims 1-46 are pending in the application. Claims 1-23 and claims 32-46 have been withdrawn from consideration. Claim 24-31 stand rejected. Claims 24-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Beyda et al., United States Patent No. 6,590,869 (Beyda). Other prior art is made of record but not relied on.

Applicant requests reconsideration. Applicant recites providing at least one of two communication paths within a digital network. Applicant does not claim transmission over a public switched telephone network (PSTN). However, this is what is discloses in the art of record. Additionally, system claims 47- 51 are presented to a system that can perform the method of claims 24-31. A like number of claims have been canceled. No additional fee is due. These claims are explicitly

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